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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/358,116 07/21/99 SACKSTEIN R 0152.00344

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EXAMINER

GAMBEL, P

ART UNIT

PAPER NUMBER

1644

DATE MAILED:

08/22/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/358116

Applicant(s)

SACKSTEIN

Examiner

Gamble

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-29 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claim(s) 1-29 are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

1. Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 1-4, drawn to a hemopoietic cell L-selectin ligand glycoprotein, classified in Class 530, subclass 300.

II. Claims 5-6, drawn to hemopoietic cell L-selectin ligand glycoprotein-specific antibodies, classified in Class 530, subclass 387.1.

III. Claims 7-10, drawn to a method of targeting cells expressing hemopoietic cell L-selectin ligand glycoprotein with specific immunotoxins, classified in Class 424, subclass 178.1.

IV. Claims 11-13, drawn to methods of selecting for and against cells expressing hemopoietic cell L-selectin ligand glycoprotein with appropriate antibodies, classified in Class 424, subclass 140.1.

V. Claim 14, drawn to a method of regulating hemopoiesis by selecting for cells expressing hemopoietic cell L-selectin ligand glycoprotein with appropriate antibodies and reinfusing said selected cells, classified in Class 424, subclass 93.71.

VI. Claims 15-16, drawn to a method of regulating inflammatory responses by administering hemopoietic cell L-selectin ligand glycoprotein-specific antibodies, classified in Class 424, subclass 143.1.

VII. Claims 17-18, drawn to a method of performing an overlay adherence assay, classified in Class 536, subclass 501.

VIII. Claims 19-22, drawn to a method of making a cytocentrifuge sample chamber, classified in Class 210, subclass 361.

IX. Claims 23-29, drawn to a cytocentrifuge sample chamber assembly, classified in Class 210, subclass 361.

2. Inventions II and III/IV/V/VI are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (M.P.E.P. § 806.05(h)). In the instant case, the product as claimed can be used in a materially different process such as immunopurification procedures or diagnostic assays as well as the Inventions III/IV/V/VI.

3. Inventions VIII and IX are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (M.P.E.P. § 806.05(f)).

In the instant case, the cytocentrifuge sample chamber assembly can be made via a variety of means and elements and not limited to that claimed.

4. Inventions III/IV/V/VI/VII/VIII are different methods of use. These inventions require different ingredients, process steps and endpoints to accomplish the use of hemopoietic cell L-selectin ligand glycoprotein-specific antibodies or immunotoxins. Therefore they are novel and unobvious in view of each other and are patentably distinct.
5. Inventions I/II/IX are different products. Antibodies, proteins and cytocentrifuge sample chambers are distinct because their structures and modes of action are different. Therefore they are novel and unobvious in view of each other and are patentably distinct.
6. Because these inventions are distinct for the reasons given above and the search required for any group from Groups I-IX is not required for any other group from Groups I-IX and Groups I-IX have acquired a separate status in the art because they encompass divergent subject matter and non-coextensive searches, restriction for examination purposes as indicated is proper.
7. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Gambel whose telephone number is (703) 308-3997. The examiner can normally be reached Monday through Thursday from 7:30 am to 6:00 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 305-3014.



Phillip Gambel, PhD.
Primary Examiner
Technology Center 1600
August 21, 2000